

**IN THE UNITED STATES DISTRICT COURT FOR THE
SOUTHERN DISTRICT OF ALABAMA
SOUTHERN DIVISION**

PATRICIA BURKETT, Administratrix *
Of the ESTATE OF *
JEREMY BURKETT, deceased, *
Plaintiff, *

1:06-CV-775-DRB

VS.

TIMOTHY EUGENE MCCRAY and *
S.E. LUMBER COMPANY, *
Defendants. *

ANSWER TO COUNTERCLAIM

COMES NOW, the Plaintiff by and through her undersigned counsel and for answer to Defendant's, Timothy Eugene McCray, Counterclaim states as follows:

1. Plaintiff denies allegations contained in paragraph 16 of the Counterclaim.
2. Plaintiff denies allegations contained in paragraph 17 of the Counterclaim.
3. Plaintiff denies allegations contained in paragraph 18 of the Counterclaim.
4. Plaintiff denies allegations contained in paragraph 19 of the Counterclaim.
5. Plaintiff is without sufficient information to form a belief as to the veracity of paragraph 20 of the Counterclaim.
6. Plaintiff is without sufficient information to form a belief as to the veracity of paragraph 21 of the Counterclaim.
7. Plaintiff is without sufficient information to form a belief as to the veracity of paragraph 22 of the Counterclaim.
8. Plaintiff is without sufficient information to form a belief as to the veracity of paragraph 23 of the Counterclaim.
9. Plaintiff is without sufficient information to form a belief as to the veracity of paragraph 24 of the Counterclaim.
10. Plaintiff explicitly denies allegations in paragraph 25 of the Counterclaim and demands strict proof thereof.

COUNT ONE

FIRST AFFIRMATIVE DEFENSE

The Counterclaim fails to state a claim for which relief can be granted.

SECOND AFFIRMATIVE DEFENSE

Counterclaim Defendant denies each and every material allegation of the Counterclaim Plaintiff's Complaint and thereby pleads the general issue.

THIRD AFFIRMATIVE DEFENSE

The damages for which Counterclaim Plaintiff allege was not caused by any act and/or omissions of this Counterclaim Defendant.

FOURTH AFFIRMATIVE DEFENSE

Counterclaim Defendant avers that any award of punitive damages in this case would be in violation of the constitutional safeguards provided under the Constitution of State of Alabama.

FIFTH AFFIRMATIVE DEFENSE

Counterclaim Defendant avers that any award of punitive damages in this case would be in violation of the constitutional safeguards provided under the Constitution of the United States of America.

RESPECTFULLY submitted this the 28th day of September, 2006.

s:/David J. Harrison
David J. Harrison, HAR149
Attorney for Plaintiff
P.O. Box 994
Geneva, Alabama 36340
334-684-8729

CERTIFICATE OF SERVICE

I hereby certify that on the 28th day of September, 2006, I electronically filed the foregoing with the Clerk of Court using the CM/ECF system, which will send notification of such filing to the following:

David W. Rousseau, Esq.
Attorney for Defendant
211 W. Adams Street
Dothan, Alabama 36303

Johnnie Mae Graham, Esq.
Attorney for Defendant
609 Pine Avenue
P.O. Box 2303
Albany, Georgia 31702

William A. Mudd, Esq.
Miller, Hamilton, Snider &
Odom, L.L.C.
Attorney for Defendants
505 North 20th Street
Financial Center, Suite 1200
Birmingham, Alabama 35203

s:/David J. Harrison

David J. Harrison